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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,327	11/14/2003	Tze Phern Ricky Yeo	58091-011400	2689
33717	7590	05/02/2005	EXAMINER	
GREENBERG TRAURIG LLP 2450 COLORADO AVENUE, SUITE 400E SANTA MONICA, CA 90404			SAWHNEY, HARGOBIND S	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 05/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/714,327	Applicant(s) YEO ET AL.	
	Examiner Hargobind S. Sawhney	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-8 and 11-14 is/are rejected.
- 7) ☐ Claim(s) 2,9 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the first line of the abstract includes a legal phrase "comprising", which should be changed to –including or having -
Correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 4, 6, 7, 8, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Rudell et al. (US Patent No.: 6,062,936).

Rudell ('936) discloses a novelty candy assembly 10 (Figures 1-3) comprising:

- a body 14 (Figures 1 and 3, column 3, line 16); an illumination module 22 – the combination including elements 22, 26 and 28- with a cover 34 including an outer layer of candy 12 (Figures 1 and 3, column 3, lines 15, 16 and 34-37);

- at least one activation conduit 20 extending from the cover 34, and operatively connected to an activation switch 18 (Figures 1-3, column 3, lines 19-21 and 24-26);
- at least one speaker 42 positioned within the body 14 (Figure 2, column 3, lines 39-41); a memory chip included in the sound generating device 40, and controlling the function of the candy assembly (Figure 2, column 3, lines 38-46);
- the activation switch actuated when the candy 12 being partially consumed (Figure 2, column 3, lines 41-56);
- the switch 18 being a part of the circuit including the illumination module, including light emitting element 28; the memory chip included in the sound generating device 40; and the speaker 42 (Figures 1-3);
- the activation of the switch reproduces pre-recorded audio and illumination (Figure 2, column 3, lines 52-61);
- the activation conduit 20 being a micro-wire (Figure 1, column 3, lines 24-26), and the activation conduit extending from the edge of the cover 34 and directly linked to the activation switch (Figure 2) ;
- the body 14 being of a cylindrical shape (Figure 1);
- a portable power source 44 including a battery (Figure 2, column 3, line 47); and
- the body 14 including a printed circuit board carrying an integrated circuit with a main switch (Figures 1-3, column 3, lines 38-43 and 56-61).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rudell et al. (US Patent No.: 6,062,936) in view of Baker (US Patent No.: 6,884,447 B2).

Rudell ('936) discloses a novelty candy assembly 10 (Figures 1-3) comprising an incandescent light bulb as the light source for illumination of a candy. However, Rudell ('936) does not specifically teach the light source including at least one light emitting diode (LED).

On the other hand, Baker ('447 B2) discloses a confectionery including light emitting diode as an illuminating mean (Figure 1, column 9, lines 15-17).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the candy assembly of Rudell ('936) by providing at least one LED as the light source as taught by Baker ('447 B2) for benefit and advantage of compactness, high energy efficiency and long operating life as compare to that of an incandescent light bulb.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rudell et al. (US Patent No.: 6,062,936) in view of Fernandez et al. (US Patent No.: 6,135,606).

Rudell ('936) discloses a novelty candy assembly 10 (Figures 1-3) comprising a body and an illumination module. However, Rudell ('936) does not specifically teach the body and the illumination module being waterproof.

On the other hand, Fernandez et al. ('606) discloses a, illuminated lollypop assembly including the body 101 and the cap 102, covering the light module, being water tight (Figures 1 and 2, column 3, lines 30-36).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the candy assembly of Rudell ('936) by providing water tight connection between the light module and the body as taught by Fernandez et al. ('606) for benefit and advantage protecting vital elements from moisture for high operational reliability and long operating life of the device.

Allowable Subject Matter

1. Claims 2, 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record, including Rudell et al. ('936), Baker ('447 B2) and Fernandez et al. ('606), does not show or suggest the applicant's invention as claimed. Specifically, the prior art of record does not disclose a lighted headwear combining:

- a vacuum switch as an activation switch for a candy assembly as recited in Claim 2.

The above-indicated combination, including a candy assembly being activated with sound and light using a vacuum switch, makes this invention unique.

Neither combined nor individual teaching of Rudell et al. ('936), Baker ('447 B2) and Fernandez et al. ('606) discloses a candy assembly including a light and sound generating means activated with a vacuum switch. Therefore, Claim 2 is objected over prior art.

Claims 9 and 10 are necessarily objected because of their dependency on the objected base Claim 2.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Coleman et al. (U.S. Patent No. 6,811,279 B2), Gordon (U.S. Patent No. 6,659,619 B2), Johnson (U.S. Patent No. 6,619,816 B1), Palmer et al. (U.S. Patent No. 6,383,536 B1) and Coleman et al. (U.S. Patent No. 5,733,033), Coleman et al. (U.S. Patent No. 5,471,373) and Schlotter, IV et al. (U.S. Patent No. 4,914,748)

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hargobind S Sawhney whose telephone number is 571 272 2380. The examiner can normally be reached on 6:15 - 2:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571 272 2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Art Unit: 2875

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HSS
4/26/2005


Stephen Husar
Primary Examiner